IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 21354 of 1999

Between:

1. APSRTC reptd by its Depot Manager, Hyderabad.-I

Depot, Gowliguda, Hyderabad.

2 The Deputy Chief Traffic Manager-I, APSRTC,

Rangareddy Region, J.B.S., Gowliguda, Hyderabad.

..... PETITIONER

AND

Sri Basheer Ahmed, S/o Sri Alla Bakash, R/o H.No.1-1-74/N,

Motinagar, Mahabubnagar-1.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly in the nature of writ of Certiorari by calling for the records in I.D.No.58 of 1998 dated 08.03.1999 published in G.O.Rt.No.764 dated 28.04.1999 on the file of the Hon'ble Labour Court-I, Hyderabad, and quash the order.

Counsel for the Petitioners: MR.V.T.M.PRASAD

Counsel for the Respondent: MR.P.SIRDHAR RAO

The Court made the following:

ORDER:

Heard Sri V.T.M.Prasad, learned standing counsel appearing for the petitioner-Corporation and Sri P.Sridhar Rao, learned counsel for the respondent-worker.

The petitioner, which is a Corporation, seeks to assail the award passed in I.D.No.58 of 1998 dated 08.03.1999 on the file of the Labour Court-I, Hyderabad, which was published in G.O.Rt.No.764 dated 28.04.1999, as bad, illegal and void.

The main ground urged by the learned counsel appearing for the petitioner-Corporation is that the respondent was employed as driver

in the petitioner-Corporation and while he was conducting a Corporation-bus on 23.04.1996 plying from Madras to Hyderabad, he caused a fatal accident near Chennoor at about 22.20 hours, as a result of which a minor girl sustained injuries and ultimately, succumbed thereto. Thereafter, a disciplinary action has been initiated and after regular enquiry he was removed from service. Questioning the same, the respondent had preferred an appeal. The appellate authority, in fact, taking into consideration the long service of the petitioner though confirmed the finding of guilt of the respondent-worker modified the order of punishment into that of an order of fresh appointment. However, in the meanwhile the respondent sought to invoke the provisions of the Industrial Disputes Act (for brevity 'the Act') by filing a reference to the Labour Court and ultimately, the same was taken on file as I.D.No.58 of 1998. The Labour Court after taking into consideration the documents and pleadings of both the sides, allowed the I.D., directing the petitioner-Corporation to reinstate the respondent herein into service with full back wages, continuity of service and also attendant benefits. Hence the writ petition.

Learned standing counsel appearing for the petitioner-Corporation strongly contends that having regard to the fact that the enquiry order of punishment of removal of the respondent-worker from service was already modified in a regular appeal on the administrative side by the appellate authority into that of a fresh appointment, the respondent could not possibly invoke the reference jurisdiction under Section-2-A (2) of the Act and seek any relief suppressing the same. Therefore, in fact, the impugned action is totally bad.

Learned counsel appearing for the respondent-worker sought to sustain the impugned award on the ground that availing of any remedy of appeal, would not in any way bar invoking the aforesaid powers and the Labour Court came to a right conclusion on the facts

of the case.

Considering the submissions made and also on perusal of the material, the only question which crops up for consideration is as to whether on the facts and circumstances of the case, the respondent-worker is justified in invoking the reference jurisdiction under Section-2-A (2) of the Act and seek reference to the Labour Court against the orders of termination in spite of the fact that original orders of termination stood modified into that of a fresh appointment by the appellate authority on a regular appeal.

There is no dispute with regard to the fact that the respondent herein was working as driver in the petitioner-Corporation and has got a long un-blemished record in his service. The enquiry was conducted only as a result of an accident caused by him on 23.04.1996 while he was conducting the bus plying from Madras to Hyderabad, in which a minor girl died as a result of injuries sustained in the accident. The said accident formed part of the enquiry in the departmental side and ultimately, he was removed from service. There is no dispute to the fact that the respondent had availed the remedy of appeal wherein the order of punishment of removal from service was modified into that of a fresh appointment. However, the respondent had also sought to challenge the order of the Appellate authority before the Labour Court by way of reference by invoking the provisions of the Act and the Labour Court had taken it as I.D.No.58 of 1999. After contest, the same was allowed by setting aside the finding of guilt holding that the charges framed against the petitioner are not proved and consequently, the order of removal was set-aside and ultimately, the respondent-worker was reinstated into service with full back wages, continuity of service and also the attendant benefits. The power as conferred and also the remedy as contemplated under the provisions of the Act is a statutory one and it is available for every worker as against any orders, of which he is aggrieved. Whereas the

departmental remedies, which are provided under its own regulations, are only in-house processes where any affected person can approach the higher authorities for redressal of his grievance. Therefore, in-house remedies cannot be put on par with remedies as contemplated under a statute, especially under the provisions of the Act. In that view of the matter, even though the respondent has availed such remedy of appeal and there is a violation with regard to the remedy though not to the full extent, but however as the respondent still remained aggrieved, necessarily he has to invoke the provisions of the Act and seek reference under the Act.

For the foregoing reasons, I do not find any merit in the contention urged on behalf of the petitioner-Corporation. Hence, it is to be held that merely because on the administrative side and especially in an in-house appeal if any order is modified partly, that itself would not bar or estop the aggrieved employee from invoking the remedies under Section-2-A (2) of the Act. It may be not out of place to mention that reference is sought to be placed by the learned counsel appearing for the respondent-worker on an unreported decision of this Court in W.P.No.14708 of 1995, dated 29.07.1999, wherein this Court in similar circumstances had held that any such circumstances would not bar the Labour Court to come to its own conclusion.

In the circumstances, I do not find any merit in the writ petition and the same is accordingly dismissed. No order as to costs.

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B.PRAKASH RAO, J

02.02.2005

DR

To

1) 2 CD copies

2) 2 CCs to Government Pleader for Labour, High Court

Buildings, Hyderabd. (OUT